

Attachment C
Text of Proposed Revisions
South Carolina Department of Health and Environmental Control
Discretionary Amendments to Regulation 61-9
State Register Document No. _____
September 13, 2007

LEGEND:

Shaded text = new text being added.

~~Strikeout text~~ = existing text being removed.

* * * = a break in text of the regulation, existing text not being shown.

61-9.122. The National Pollutant Discharge Elimination System
* * * * *

Table of Contents

Part A - Definitions and General Program Requirements

Section

- 122.1 Purpose and scope.
- 122.2 Definitions.
- 122.3 Exclusions.
- 122.4 Prohibitions.
- 122.5 Effect of a permit.
- 122.6 Continuation of expiring permits.
- 122.7 Confidentiality of information.

Part B - Permit Application and Special NPDES Program Requirements

- 122.21 Application for a permit.
- 122.22 Signatories to permit applications and reports.
- 122.23 Concentrated animal feeding operations.
- 122.24 Concentrated aquatic animal production facilities.
- 122.25 Aquaculture projects.
- 122.26 Storm water discharges.
- 122.27 Silvicultural activities.
- 122.28 General permits.
- 122.29 New sources and new discharges.
- 122.30 What are the objectives of the storm water regulations for small MS4s?
- 122.31 Indian Tribes.
- 122.32 Is an operator of a small MS4 regulated under the NPDES storm water program?
- 122.33 How does an operator of a regulated, small MS4 apply for an NPDES permit, and when must he apply?
- 122.34 As an operator of a regulated, small MS4, what will my NPDES MS4 storm water permit require?
- 122.35 May an operator of a regulated small MS4 share the responsibility to implement the minimum control measures with other entities?

122.36 As an operator of a regulated small MS4, what happens if I don't comply with the application or permit requirements in sections 122.33 through 122.35?

Part C - Permit Conditions

- 122.41 Conditions applicable to all permits.
- 122.42 Additional conditions applicable to specified categories of NPDES permits.
- 122.43 Establishing permit conditions.
- 122.44 Establishing limitations, standards and other permit conditions.
- 122.45 Calculating NPDES permit conditions.
- 122.46 Duration of permits.
- 122.47 Schedules of compliance.
- 122.48 Requirements for recording and reporting of monitoring results.
- 122.49 [Reserved].
- 122.50 Disposal of pollutants into publicly-owned treatment works.

Part D - Transfer, Modification, Revocation and Reissuance, and Termination of Permits

- 122.61 Transfer of permits.
- 122.62 Modification or revocation and reissuance of permits.
- 122.63 Minor modifications of permits.
- 122.64 Termination of permits.

APPENDIX A -NPDES Primary Industry Categories

APPENDIX B -Criteria For Determining A Concentrated Animal Feeding Operation (section 122.23)

APPENDIX C -Criteria For Determining A Concentrated Aquatic Animal Production Facility (section 122.24)

APPENDIX D -NPDES Permit Application Testing Requirements (section 122.21) (Refer to 40 CFR Part 122, Appendix D)

APPENDIX E -Rainfall Zones Of The United States (Refer to 40 CFR Part 122, Appendix E)

APPENDIX F -Incorporated Places With Populations Greater Than 250,000 According To The 1990 Decennial Census By Bureau Of Census (Refer to 40 CFR Part 122, Appendix F)

APPENDIX G -Incorporated Places With Populations Greater Than 100,000 And Less Than 250,000 According To 1990 Decennial Census By Bureau Of Census (Refer to 40 CFR Part 122, Appendix G)

APPENDIX H -Counties With Unincorporated Urbanized Areas With A Population Of 250,000 Or More According To The 1990 Decennial Census By The Bureau Of Census (Refer to 40 CFR Part 122, Appendix H)

APPENDIX I - Counties With Unincorporated Urbanized Areas Greater Than 100,000, But Less Than 250,000 According To The 1990 Decennial Census By The Bureau Of Census (Refer to 40 CFR Part 122, Appendix I)

APPENDIX J - NPDES Permit Testing Requirements For Publicly Owned Treatment Works [section 122.21(j)]

122.2. Definitions.

* * * * *

(b) Definitions:

* * * * *

“Draft Permit” means a document prepared by the staff of the Department, in accordance with R.61-9.124.6, prior to public notice of an application for a permit by a discharger. This document indicates the Department’s tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit to discharge. It contains proposed effluent standards and limitations, proposed compliance schedules and other proposed conditions or restrictions deemed necessary by the Department for a discharge. ~~The draft permit constitutes an order of the Department and shall constitute a final determination of the Department thirty (30) days after issuance timely appealed in accordance with the provisions of the Pollution Control Act (PCA), and this Regulation.~~ A notice of intent to terminate a permit, and a notice of intent to deny a permit, as discussed in R.61-9.124.5, are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination, as discussed in R.61-9.124.5, is not a draft permit. A “proposed permit” is not a draft permit.

* * * * *

Section 122.21 Application for a permit.

* * * * *

(j) * * *

(6) * * *

(ii) POTWs with one or more SIU shall provide the following information for each SIU, as defined at R.61-9.403.3~~(n)~~(o), that discharges to the POTW:

* * * * *

122.21 * * *

(k) Application requirements for new sources and new discharges.

New manufacturing, commercial, mining, and silvicultural dischargers applying for NPDES permits (except for new discharges of facilities subject to the requirements of paragraph (h) of this section or new discharges of storm water associated with industrial activity which are subject to the requirements of section 122.26(c)(1) and this section (except as provided by section 122.26(c)(1)(ii)) shall provide the following information to the Department, using application forms provided by the Department.

* * * * *

122.26 * * *

(a) * * *

(1) * * *

(ii) A discharge associated with industrial activity (see section 122.26(a)(4));

* * * * *

(b) * * *

(14) “Storm water discharge associated with industrial activity” means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under this regulation. For the categories of industries identified in this section, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers

of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at ~~part 401 of this chapter~~ 40 CFR Part 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the purposes of this paragraph, material handling activities include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are federally, State, or municipally owned or operated that meet the description of the facilities listed in paragraphs (b)(14)(i) through (xi) of this section) include those facilities designated under the provisions of paragraph (a)(1)(v) of this section. The following categories of facilities are considered to be engaging in "industrial activity" for purposes of paragraph (b)(14):

(i) * * *

(e) * * *

(7) * * *

~~(i)(B)~~ (B) For any municipality with a population of less than 250,000 * * *

122.32 * * *

(a) * * *

(2) You are designated by the ~~NPDES-permitting authority~~ Department, including where the designation is pursuant to ~~sections 40 CFR 123.35(b)(3) or (b)(4) of 40 CFR 122~~ or is based upon a petition under section 122.26(f).
* * * * *

(f) Process for designating small MS4 to require storm water NPDES permitting. * * *

122.44 * * *

(j) * * *

(1) Identify, in terms of character and volume of pollutants, any Significant ~~indirect~~ ~~dischargers~~ Industrial Users discharging into the POTW subject to Pretreatment Standards under section 307(b) of CWA and R.61-9.403.
* * * * *

122.62 * * *

(d) * * *

(5) When the permittee has filed a request for a variance under CWA section 301(c), 301(k), or 316(a) or for "fundamentally different factors" within the time specified in section ~~122~~ 122.21.

* * * * *

(7) Reopener. When required by the "reopener" conditions in a permit, which are established in the permit under section 122.44(b) (for CWA toxic effluent limitations and standards for sewage sludge use or disposal, see also section 122.44(c)) or R.61-9.403.10(e)403.18(e) (Pretreatment program).

* * * * *

122.64 is amended at (a)(4)(ii) to read as follows:

(a) * * *

(4) * * *

(ii) Cessation of substantially all manufacturing operations, which are a basis for effluent limits or which contribute to a discharge, for a period of 60 180 days or longer.

* * * * *

124.5 * * *

(b) See section ~~124.15(e)~~ 124.19 for appeals procedure.

* * * * *

124.15 Issuance and effective date of permit.

* * * * *

~~(c) Issuance or Denial of Permits. An appeal to a final determination of the Department or to a condition of a permit issued or the denial of a permit pursuant to the State law and this regulation, shall be in accordance with and subject to 48-1-200 of the Code.~~

* * * * *

124.19 ~~[Reserved.]~~ Appeal of NPDES and State Permits.

a. A Department decision involving issuance, denial, renewal, modification, suspension, or revocation of an NPDES, Land Application, or State permit may be appealed by an affected person with standing pursuant to applicable law, including S.C. Code Title 1, Chapter 23 and Title 44, Chapter 1.

b. Any person to whom an order, related to an NPDES, Land Application, or State permit, is issued may appeal it pursuant to applicable law, including S.C. Code Title 1, Chapter 23 and Title 44, Chapter 1.

* * * * *

124.56 * * *

~~(c) For permits that include a sewage sludge land application plan under 40 CFR 501.15(a)(2)(ix), a brief description of how each of the required elements of the land application plan are addressed in the permit. [Reserved.]~~

129.103 * * *

(c) * * *

(1) * * *

(i) * * *

~~(b)~~ (B) All discharges from the formulating areas; loading and unloading areas, storage areas and other areas which are subject to direct contamination by toxaphene as a result of the formulating process, including but not limited to: * * *

PART 403--GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

* * * * *

Section 403.3. Definitions.

* * * * *

(b) The term Best Management Practices or BMP means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Sections 403.5(a)(1) and (b). BMP also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(c) The term Control Authority refers to:

(1) The POTW, if the POTW's Pretreatment Program submission has been approved in accordance with the requirements of Section 403.11; or

(2) The Department, if the submission has not been approved.

* * * * *

~~(b)~~ (d) * * *

~~(e)~~ (e) * * *

~~(d)~~ (f) * * *

~~(e)~~ [Reserved]

—— ~~(f)~~ (g) * * *

~~(g)~~ (h) * * *

~~(h)~~ (i) * * *

~~(i)~~ (j) * * *

~~(j)~~ (k) * * *

~~(k)~~ (l)(1) The term “POTW Treatment Plant” means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

(2) For purposes of Part 403, the term “POTW” shall mean publicly owned treatment works or a private facility that has been determined to be a regional provider of service identified under the 208 Water Quality Management Plan.

~~(H)~~ (m) * * *

~~(m)~~ (n) * * *

~~(n)~~ (o) Significant Industrial User.

(1) Except as provided in ~~subsection~~ subsections (2) and (3) of this section, the term Significant Industrial User means:

(i) All Industrial Users subject to Categorical Pretreatment Standards under section 403.6 and 40 CFR chapter I, subchapter N and

(ii) Any other Industrial User that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW Treatment plant; or is designated as such by the Control Authority ~~as defined in section 403.12(a)~~ on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement (in accordance with section 403.8(f)(6)).

(2) The Control Authority may determine that an Industrial User subject to categorical Pretreatment Standards under Section 403.6 and 40 CFR chapter I, subchapter N is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

(i) The Industrial User, prior to the Control Authority's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;

(ii) The Industrial User annually submits the certification statement required in Section 403.12(q) together with any additional information necessary to support the certification statement; and

(iii) The Industrial User never discharges any untreated concentrated wastewater.

~~(2)~~ (3) Upon a finding that an Industrial User meeting the criteria in paragraph (v)(1)(ii) of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirement, the Control Authority ~~(as defined in section 403.12(a))~~ may at any time, on its own initiative or in response to a petition received from an Industrial User or POTW, and in accordance with section 403.8(f)(6), determine that such Industrial User is not a Significant Industrial User.

* * * * *

403.5 National pretreatment standards: Prohibited discharges.

* * * * *

(c) * * *

(2) All other POTWs shall, in cases where pollutants contributed by User(s) result in Interference or Pass Through, and such violation is likely to recur, develop and enforce specific effluent limits for Industrial User(s), and all other users, as appropriate, which, together with appropriate changes in the POTW Treatment Plant's facilities or operation, are necessary to ensure renewed and continued compliance with the POTW's NPDES permit or sludge use or disposal practices.

(i) This evaluation must reflect the POTW's reasonable potential analysis utilized for all pollutants completed by the Department as part of the NPDES process (R61-9.122). The POTW will utilize the Department's analysis in the determination of appropriate pretreatment requirements.

(ii) This analysis must utilize the current Water Quality Standards (R.61-68).

* * * * *

(4) POTW may develop Best Management Practices (BMP) to implement paragraphs (c)(1) and (c)(2) of this section. Such BMP shall be considered local limits and Pretreatment Standards for the purposes of this part and section 307(d) of the Act.

(d) * * *

(1) The POTW shall utilize the EPA Guidance Manual (EPA 833-R-04-002A) for the development of Local Limits.

(2) Appropriate removal rates shall be based on wastewater plant site-specific influent and effluent data unless otherwise approved by the Department.

(e) * * *

403.6 National pretreatment standards: Categorical standards.

* * * * *

(c) Deadline for compliance with categorical standards. Compliance by existing sources with categorical Pretreatment Standards shall be within 3 years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR chapter I, subchapter N. Direct dischargers with NPDES Permits modified or reissued to provide a variance pursuant to section 301(i)(2) of the Act shall be required to meet compliance dates set in any applicable categorical Pretreatment Standard. Existing sources which become Industrial Users subsequent to promulgation of an applicable categorical Pretreatment Standard shall be considered existing Industrial Users except where such sources meet the definition of a New Source as defined in Section 403.3(i). New Sources shall install and have in operating condition, and shall "start-up" all pollution control equipment required to meet applicable Pretreatment Standards before beginning to Discharge. Within the shortest feasible time (not to exceed 90 days), New Sources must meet all applicable Pretreatment Standards.

(d) * * *

(2) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Control Authority may convert the limits to equivalent

limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.

* * * * *

(5) When the limits in a categorical Pretreatment Standard are expressed only in terms of pollutant concentrations, an Industrial User may request that the Control Authority convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Control Authority and with prior approval of the Department. The Control Authority may establish equivalent mass limits after Department review and approval only if the Industrial User meets all the following conditions in paragraph (d)(5)(i)(A) through (d)(5)(i)(E) of this section.

(i) To be eligible for equivalent mass limits, the Industrial User must:

(A) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its control mechanism;

(B) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;

(C) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and long-term average production rate must be representative of current operating conditions;

(D) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and

(E) Have consistently complied with all applicable categorical Pretreatment Standards during the period, at least three years, prior to the Industrial User's request for equivalent mass limits.

(ii) An Industrial User subject to equivalent mass limits must:

(A) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

(B) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of not greater than 10 percent from the true discharge rates throughout the range of expected discharge volumes;

(C) Continue to record the facility's production rates and notify the Control Authority whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph (d)(5)(i)(C) of this section. Upon notification of a revised production rate, the Control Authority must reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

(D) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraph (d)(5)(i)(A) of this section so long as it discharges under an equivalent mass limit.

(iii) A Control Authority which chooses to establish equivalent mass limits:

(A) Must calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based daily maximum and monthly average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;

(B) Upon notification of a revised production rate, must reassess, with prior Department approval, the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

(C) May retain the same equivalent mass limit in subsequent control mechanism terms, with prior Department approval, if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to paragraph (e) of this section. The Industrial User must also be in compliance with section 403.17 (regarding the prohibition of bypass).

(iv) The Control Authority may not express limits in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants which cannot appropriately be expressed as mass.

(6) The Control Authority may, with prior Department approval, convert the mass limits of the categorical Pretreatment Standards at 40 CFR parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users under the following conditions. When converting such limits to concentration limits, the Control Authority must use the concentrations listed in the applicable subparts of 40 CFR parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited by paragraph (d) (e) of this section.

~~(5)~~ (7) Equivalent limitations calculated in accordance with paragraphs (d)(3), (d)(4), (d)(5), and (d)(6) of this section are deemed Pretreatment Standards for the purposes of section 307(d) of the CWA and this regulation. The Control Authority must document how the equivalent limits were derived and make this information publicly available. Once incorporated into its control mechanism, the Industrial User must ~~Industrial Users will be required to~~ comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

~~(6)~~ (8) Many categorical pretreatment standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or 4-day average, limitations. Where such standards are being applied, the same production ~~of~~ or flow figure shall be used in calculating both ~~types of equivalent limitations~~ the average and the maximum equivalent limitation.

~~(7)~~ (9) * * *

(e) Dilution prohibited as substitute for treatment. Except where expressly authorized to do so by an applicable Pretreatment Standard or Requirement, no Industrial User shall ever increase the use of process water, or in any other way attempt to dilute a Discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard or Requirement. The Control

Authority ~~(as defined in section 403.12(a))~~ may impose mass limitations on Industrial Users which are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases where the imposition of mass limitations is appropriate.

(f) Combined wastestream formula. Where process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived by the Control Authority, ~~as defined in section 403.12(a)~~, or by the Industrial User with the written concurrence of the Control Authority. These alternative limits shall be applied to the mixed effluent. When deriving alternative categorical limits, the Control Authority or Industrial User shall calculate both an alternative daily maximum value using the daily maximum value(s) specified in the appropriate categorical Pretreatment Standard(s) and an alternative consecutive sampling day average value using the monthly average value(s) specified in the appropriate categorical Pretreatment Standard(s). The Industrial User shall comply with the alternative daily maximum and monthly average limits fixed by the Control Authority until the Control Authority modifies the limits or approves an Industrial User modification request. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative limits for the regulated pollutant. An Industrial User must immediately report any such material or significant change to the Control Authority. Where appropriate new alternative categorical limits shall be calculated within 30 days.

(1) * * *

403.7 Removal credits.

* * * * *

(a) * * *

(3) * * *

(iv) * * *

(C) For any pollutant in sewage sludge when the POTW disposes all of its sewage sludge in a municipal solid waste landfill unit that meets the criteria in 40 CFR Part 258 and R.61-107.258.

* * * * *

(h) Compensation for Overflow. ``Overflow" means the intentional or unintentional diversion of flow from the POTW before the POTW Treatment Plant. POTWs which at least once annually overflow untreated wastewater to receiving waters may claim Consistent Removal of a pollutant only by complying with either paragraphs (h)(1) or (h)(2) of this section. However, ~~this subsection~~ paragraph (h) of this section shall not apply where Industrial User(s) can demonstrate that Overflow does not occur between the Industrial User(s) and the POTW Treatment Plant;

* * * * *

(2) (i) The Consistent Removal claimed is reduced pursuant to the following equation:

$$r_c = r_m \times$$

Where:

r_m = POTW's Consistent Removal rate for that pollutant as established under paragraphs (a)(1) and (b)(2) of this section

r_c = removal corrected by the Overflow factor

Z = hours per year that overflows occurred between the Industrial User(s) and the POTW Treatment Plant, the hours either to be shown in the POTW's current NPDES permit application or the hours, as demonstrated by verifiable techniques, that a particular Industrial User's Discharge overflows between the Industrial User and the POTW Treatment Plant; and

(ii) ~~[Reserved.] After July 1, 1983, Consistent Removal may be claimed only where efforts to correct the conditions resulting in untreated Discharges by the POTW are underway in accordance with the policy and procedures set forth in "PRM 75-34" or "Program Guidance Memorandum 61" (same document) published on December 16, 1975, by EPA Office of Water Program Operations (WH 546). Revisions to discharge limits in categorical Pretreatment Standards may not be made where efforts have not been committed to by the POTW to minimize pollution from Overflows. At minimum, by July 1, 1983, the POTW must have completed the analysis required by PRM 75-34 and be making an effort to implement the plan.~~

* * * * *

403.8 Pretreatment Program Requirements: Development and implementation by POTW.

* * * * *

(f) * * *

(1) * * *

(iii) Control through Permit, order, or similar means, the contribution to the POTW by each Industrial User to ensure compliance with applicable Pretreatment Standards and Requirements. In the case of Industrial Users identified as significant under Section 403.3, this control shall be achieved through individual permits or equivalent individual control mechanisms issued to each such User except as follows. ~~Such control mechanisms must be enforceable and contain, at a minimum, the following conditions:~~

_____ ~~(A) Statement of duration (in no case more than five years);~~

_____ ~~(B) Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;~~

_____ ~~(C) Effluent limits based on applicable general pretreatment standards in R.61-9.403 of this chapter, categorical pretreatment standards, local limits, and State and local law;~~

_____ ~~(D) Self-monitoring, sampling, reporting, notification and record keeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in R.61-9.403 of this chapter, categorical pretreatment standards, local limits, and State and local law;~~

~~(E) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.~~

(A) (I) At the discretion of the POTW and with prior Department approval, this control may include use of general control mechanisms if the following conditions are met. All of the facilities to be covered must:

(i) Involve the same or substantially similar types of operations;

(ii) Discharge the same types of wastes;

(iii) Require the same effluent limitations;

(iv) Require the same or similar monitoring; and

(v) In the opinion of the POTW, and with prior Department approval, are more appropriately controlled under a general control mechanism than under individual control mechanisms.

(2) To be covered by the general control mechanism, the Significant Industrial User must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general control mechanism, any requests in accordance with section 403.12(e)(2) for a monitoring waiver for a pollutant neither present nor expected to be present in the Discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the Discharge is not effective in the general control mechanism until after the POTW has provided written notice to the Significant Industrial User that, with prior Department approval, such a waiver request has been granted in accordance with section 403.12(e)(2). The POTW must retain a copy of the general control mechanism, documentation to support the POTW's determination that a specific Significant Industrial User meets the criteria in paragraphs (f)(1)(iii)(A)(1) through (5) of this section, and a copy of the User's written request for coverage for 3 years after the expiration of the general control mechanism. A POTW may not control a Significant Industrial User through a general control mechanism where the facility is subject to production-based, categorical Pretreatment Standards or categorical Pretreatment Standards expressed as mass of pollutant discharged per day or for Industrial Users whose limits are based on the Combined Wastestream Formula or Net/Gross calculations (sections 403.6(f) and 403.15).

(B) Both individual and general control mechanisms must be enforceable and contain, at a minimum, the following conditions:

(I) Statement of duration (in no case more than five years);

(2) Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;

(3) Effluent limits, including Best Management Practices, based on applicable general Pretreatment Standards in S.C. R.61-9, part 403, categorical Pretreatment Standards, local limits, and State and local law;

(4) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the Discharge in accordance with section 403.12(e)(2), or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general Pretreatment Standards in part 403 of this chapter, categorical Pretreatment Standards, local limits, and State and local law;

(5) Statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines;

(6) Requirements to control Slug Discharges, if determined by the POTW to be necessary.

* * * * *

(v) Carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by Industrial Users, compliance or noncompliance with applicable Pretreatment Standards and Requirements by Industrial Users. Representatives of the POTW shall be authorized to enter any premises of any Industrial User in which a Discharge source or treatment system is located or in which records are required to be kept under section 403.12(m)(o) to assure compliance with Pretreatment Standards. Such authority shall be at least as extensive as the authority provided under section 308 of CWA;

(vi) * * *

(B) Pretreatment requirements which will be enforced through the remedies set forth in paragraph (f)(1)(vi)(A) of this section, will include but not be limited to, the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the POTW; any requirements set forth in individual control mechanisms issued by the POTW; or any reporting requirements imposed by the POTW or these regulations in this part. * * *

(2) * * *

(v) Randomly sample and analyze the effluent from Industrial Users and conduct surveillance activities in order to identify, independent of information supplied by Industrial Users, occasional and continuing noncompliance with Pretreatment Standards. Inspect and sample the effluent from each Significant Industrial User at least once every twelve months. Evaluate, at least once every two years, whether each such Significant Industrial User needs a plan to control slug discharges. For purposes of this subsection, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge. The results of such activities shall be made available to the Department upon request. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements: a year, except as otherwise specified below:

_____(A) Description of discharge practices, including non-routine batch discharges;

_____(B) Description of stored chemicals;

~~(C) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under section 403.5(b), with procedures for follow-up written notification within five days;~~

~~(D) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response;~~

(A) Where the POTW has authorized the Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard in accordance with section 403.12(e)(3), the POTW must sample for the waived pollutant(s) at least once during the term of the Categorical Industrial User's control mechanism. In the event that the POTW subsequently determines that a waived pollutant is present or is expected to be present in the Industrial User's wastewater based on changes that occur in the User's operations, the POTW must immediately begin at least annual effluent monitoring of the User's Discharge and inspection.

(B) Where the POTW has determined that an Industrial User meets the criteria for classification as a Non-Significant Categorical Industrial User, the POTW must evaluate, at least once per year, whether an Industrial User continues to meet the criteria in section 403.3(o)(2).

(C) In the case of Industrial Users subject to reduced reporting requirements under section 403.12(e)(3), the POTW must randomly sample and analyze the effluent from Industrial Users and conduct inspections at least once every two years. If the Industrial User no longer meets the conditions for reduced reporting in section 403.12(e)(3), the POTW must immediately begin sampling and inspecting the Industrial User at least once a year.

(vi) Evaluate whether each such Significant Industrial User needs a plan or other action to control Slug Discharges. For Industrial Users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; additional Significant Industrial Users must be evaluated within 1 year of being designated a Significant Industrial User. For purposes of this subsection, a Slug Discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions. The results of such activities shall be available to the Department upon request. Significant Industrial Users are required to notify the POTW immediately of any changes at its facility affecting potential for a Slug Discharge. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

(A) Description of discharge practices, including non-routine batch discharges;

(B) Description of stored chemicals;

(C) Procedures for immediately notifying the POTW of Slug Discharges, including any discharge that would violate a prohibition under section 403.5(b) with procedures for follow-up written notification within five days;

(D) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response;

~~(vi)~~ (vii) * * *

~~(vii)~~ (viii) Comply with the public participation requirements of 40 CFR part 25 in the enforcement of National Pretreatment Standards. These procedures shall include provision for at least annual public notification in ~~the largest daily newspaper published in the municipality in which the POTW is located~~ a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW of Industrial Users which, at any time during the previous 12 months, were in significant noncompliance with applicable Pretreatment requirements. For the purposes of this provision, a Significant Industrial User (or any ~~an~~ Industrial User which violates paragraphs (f)(2)(viii)(C), (D), or (H) of this section) is in significant noncompliance if its violation meets one or more of the following criteria:

(A) Chronic violations of wastewater Discharge limits, defined here as those in which ~~sixty-six~~ percent or more of all of the measurements taken for the same pollutant parameter during a ~~six~~-month period exceed (by any magnitude) ~~the daily maximum limit or the average limit for the same pollutant parameter.~~ a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 403.3;

(B) Technical Review Criteria (TRC) violations, defined here as those in which ~~thirty-three~~ percent or more of all of the measurements ~~for each~~ taken for the same pollutant parameter during a ~~six~~-month period equal or exceed the product of the ~~daily maximum limit or the average limit~~ numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 403.3 multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(C) Any other violation of a ~~pretreatment effluent limit (daily maximum or longer term average)~~ Pretreatment Standard or Requirement as defined by 403.3 (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the ~~Control Authority~~ POTW determines has caused, alone or in combination with other Discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);

* * * * *

(F) Failure to provide, within ~~30~~ 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

* * * * *

(H) Any other violation or group of violations, which may include a violation of Best Management Practices, which the ~~Control Authority~~ POTW determines will adversely affect the operation or implementation of the local Pretreatment program.

(3) Funding. The POTW shall have sufficient resources and qualified personnel to carry out the authorities and procedures described in paragraphs (f)(1) and (2) of this section. In some limited circumstances, funding and personnel may be delayed where (i) the POTW has adequate legal authority

and procedures to carry out the Pretreatment Program requirements described in this section, and (ii) a limited aspect of the Program does not need to be implemented immediately. (See 403.9(b).)

(4) Local limits. The POTW shall develop local limits as required in section 403.5(c)(1) or demonstrate to the satisfaction of the Department that they are not necessary.

* * * * *

(6) The POTW shall prepare and maintain a list of its Industrial Users meeting the criteria in section 403.3(n)(o)(1). The list shall identify the criteria in section 403.3(n)(o)(1) applicable to each Industrial User and, for industrial users meeting the criteria in section 403.3(n)(1)(ii) where applicable, shall also indicate whether the POTW has made a determination pursuant to Section 403.3(n)(2)(o)(3) that such Industrial User should not be considered a Significant Industrial User. The initial list shall be submitted to the Department pursuant to section 403.9 or as a non-substantial modification pursuant to section 403.18(d). Modifications to the list shall be submitted to the Department pursuant to section 403.12(i)(1).

* * * * *

403.12 Reporting requirements for POTW and Industrial Users.

(a) ~~Definition. The term "Control Authority" as it is used in this section refers to:~~

~~_____ (1) The POTW if the POTW's Submission for its pretreatment program (section 403.3(n)(1)) has been approved in accordance with the requirements of section 403.11; or~~

~~_____ (2) the Department if the Submission has not been approved. [Reserved.]~~

(b) * * *

(4) * * *

(ii) Other streams as necessary to allow use of the combined waste stream formula of section 403.6(f). (See paragraph (b)(5)(iv) of this section.)

* * * * *

(5) * * *

(ii) In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration ~~and mass~~, (or mass, where required by the Standard or Control Authority) of regulated pollutants in the Discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the Control Authority or the applicable Standards to determine compliance with the Standard;

(iii) ~~_____ A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The Control Authority may waive flow-proportional composite sampling for any Industrial User that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples~~

where the User demonstrates that this will provide a representative sample of the effluent being discharged.

~~(iv)~~(iii) * * *

~~(v)~~ (iv) * * *

~~(vi)~~ (v) * * *

~~(vii)~~ (vi) * * *

~~(viii)~~ (vii) * * *

(6) Certification. A statement, reviewed by an authorized representative of the Industrial User (as defined in paragraph (l) of this section) and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O & M) and/or additional Pretreatment is required for the Industrial User to meet the Pretreatment Standards and Requirements; and

(7) * * *

(ii) If the categorical Pretreatment Standard is modified by a removal allowance (section 403.7), the combined waste stream formula (section 403.6(f)), and/or a Fundamentally Different Factors variance (section 403.13) at the time the User submits the report required by paragraph (b) of this section, ~~any necessary amendment to the information requested~~ required by paragraphs (b)(6) and (7) of this section shall be submitted by the Industrial User to the Control Authority within 60 days after the modified limit is approved.

* * * * *

(e) * * *

(1) Any Industrial User subject to a categorical Pretreatment Standard (except a Non-Significant Categorical User as defined in section 403.3(o)(2)), after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the Control Authority during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Control Authority or the Department, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical Pretreatment Standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the Discharge reported in paragraph (b)(4) of this section, except that the Control Authority may require more detailed reporting of flows. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the User shall submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the User. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may ~~agree to alter~~ modify the months during which the above reports are to be submitted.

~~(2) Where the Control Authority has imposed mass limitations on Industrial Users as provided for by section 403.6(e), the report required by paragraph (e)(1) of this section shall indicate the mass of pollutants regulated by Pretreatment Standards in the Discharge from the Industrial User.~~

(2) The Control Authority may with prior Department approval authorize the Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:

(i) The Control Authority may with prior Department approval authorize a waiver where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater and the POTW does not have an effluent NPDES limit for this pollutant.

(ii) The monitoring waiver is valid only for the duration of the effective period of the Permit or other equivalent individual control mechanism, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can with prior Department approval be granted for each subsequent control mechanism.

(iii) In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver must be signed in accordance with paragraph (l) of this section and include the certification statement in section 403.6(b)(2)(ii). Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR part 136 with the lowest minimum detection level for that pollutant was used in the analysis, or at the lowest Practical Quantitation Limit specified by the Department, whichever is lower.

(iv) Any grant of the monitoring waiver by the Control Authority must be included as a condition in the User's control mechanism. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Control Authority for 3 years after expiration of the waiver.

(v) Upon approval of the monitoring waiver and revision of the User's control mechanism by the Control Authority, the Industrial User must certify on each report with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR ----- [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of ----- [list pollutant(s)] in the waste streams due to the activities at the facility since filing of the last periodic report under S.C. R.61-9.403.12(e)(1).

(vi) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of paragraph (e)(1) of this section or other more frequent monitoring requirements imposed by the Control Authority; and notify the Control Authority.

(vii) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

(3) The Control Authority may reduce the requirement in paragraph (e)(1) of this section to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the Department, where the Industrial User meets all of the following conditions:

(i) The Industrial User's total categorical wastewater flow does not exceed any of the following:

(A) 0.01 percent of the design dry weather hydraulic capacity of the POTW, or 5,000 gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches;

(B) 0.01 percent of the design dry weather organic treatment capacity of the POTW; and

(C) 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which approved local limits were developed by a POTW in accordance with section 403.5(c) and paragraph (d) of this section;

(ii) The Industrial User has not been in significant noncompliance, as defined in section 403.8(f)(2)(vii), for any time in the past two years;

(iii) The Industrial User does not have daily flow rates, production levels, or pollutant levels that vary so significantly that decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period pursuant to paragraph (g)(3) of this section;

(iv) The Industrial User must notify the Control Authority immediately of any changes at its facility causing it to no longer meet conditions of paragraphs (e)(3)(i) or (ii) of this section. Upon notification, the Industrial User must immediately begin complying with the minimum reporting in paragraph (e)(1) of this section; and

(v) The Control Authority must retain documentation to support the Control Authority's determination that a specific Industrial User qualifies for reduced reporting requirements under paragraph (e)(3) of this section for a period of 3 years after the expiration of the term of the control mechanism.

~~(3)~~ (4) * * *

* * * * *

(g) * * *

(1) Except in the case of Non-Significant Categorical Users, the ~~The~~ reports required in paragraphs (b), (d), ~~and~~ (e), and (h) of this section shall contain the results of sampling and analysis of the Discharge, including the flow and the nature and concentration, or production and mass where requested by the Control Authority, of pollutants contained therein which are limited by the applicable Pretreatment Standards. This sampling and analysis may be performed by the Control Authority in lieu of the Industrial User. Where the POTW performs the required sampling and analysis in lieu of the Industrial User, the User will not be required to submit the compliance certification required under section 403.12(b)(6) and

section 403.12(d). In addition, where the POTW itself collects all the information required for the report, including flow data, the Industrial User will not be required to submit the report.

(2) If sampling performed by an Industrial User indicates a violation, the User shall notify the Control Authority within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within 30 days after becoming aware of the violation. ~~except the Industrial User is not required to resample if:~~ Where the Control Authority has performed the sampling and analysis in lieu of the Industrial User, the Control Authority must perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat analysis. Resampling is not required if:

(i) The Control Authority performs sampling at the Industrial User at a frequency of at least once per month; or

(ii) The Control Authority performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the Control Authority receives the results of this sampling.

(3) The reports required in paragraphs (b), (d), (e), and (h) of this section must ~~shall~~ be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data ~~is~~ are representative of conditions occurring during the reporting period. The Control Authority shall require that frequency of monitoring necessary to assess and assure compliance by Industrial Users with applicable Pretreatment Standards and Requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority with approval by the Department, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Control Authority, as appropriate.

(4) For sampling required in support of baseline monitoring and 90-day compliance reports required in paragraphs (b) and (d) of this section, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Control Authority may with approval by the Department authorize a lower minimum. For the reports required by paragraphs (e) and (h) of this section, the Control Authority shall require the number of grab samples necessary to assess and assure compliance by Industrial Users with Applicable Pretreatment Standards and Requirements.

~~(4)~~ (5) * * *

~~(5)~~ (6) If an Industrial User subject to the reporting requirement in paragraph (e) or (h) of this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Control Authority, using the procedures prescribed in paragraph (g)~~(4)~~(5) of this section, the results of this monitoring shall be included in the report.

(h) Reporting requirements for Industrial Users not subject to categorical Pretreatment Standards. The Control Authority must require appropriate reporting from those Industrial Users with Discharges that are not subject to categorical Pretreatment Standards. Significant Non-categorical Industrial Users must ~~shall~~ submit to the Control Authority at least once every six months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. In cases where a local limit requires compliance with a Best Management Practice or pollution prevention alternative, the User must submit documentation required by the Control Authority to determine the compliance status of the User. These reports must be based on sampling and analysis performed in the period covered by the report, and in accordance with the techniques described in part 136 and amendments thereto. ~~Where 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other persons, approved by the Department.~~ This sampling and analysis may be performed by the Control Authority in lieu of the significant non-categorical Industrial User. ~~Where the POTW itself collects all the information required for the report, the noncategorical significant industrial user will not be required to submit the report.~~

———(i) * * *

(1) An updated list of the POTW's Industrial Users, including their names and addresses, or a list of deletions and additions keyed to a previously submitted list. The POTW shall provide a brief explanation of each deletion. This list shall identify which Industrial Users are subject to categorical Pretreatment Standards and specify which Standards are applicable to each Industrial User. The list shall indicate which Industrial Users are subject to local standards that are more stringent than the categorical Pretreatment Standards. The POTW shall also list the Industrial Users that are subject only to local Requirements. The list must also identify Industrial Users subject to categorical Pretreatment Standards that are subject to reduced reporting requirements under paragraph (e)(3), and identify which Industrial Users are Non-Significant Categorical Industrial Users;

* * * * *

(j) Notification of changed Discharge. All Industrial Users shall promptly notify the Control Authority (and the POTW if the POTW is not the Control Authority) in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the Industrial User has submitted initial notification under section 403.12(p).

* * * * *

(l) * * *

(1) * * *

(ii) The manager of one or more manufacturing, production, or operating facilities ~~employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars)~~, if, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) By a general partner or proprietor if the Industrial User submitting the reports required by paragraphs (b), (d), and (e) of this section is a partnership or sole proprietorship, respectively.

* * * * *

(m) Signatory requirements for POTW reports. Reports submitted to the Department by the POTW in accordance with paragraph (i) of this section must be signed by a principal executive officer, ranking elected official, or other duly authorized employee ~~if such employee is responsible for overall operation of the POTW~~. The duly authorized employee must be an individual or position having responsibility for the overall operation of the facility or the Pretreatment Program. This authorization must be made in writing by the principal executive officer or ranking elected official, and submitted to the Department prior to or together with the report being submitted.

* * * * *

(o) * * *

(1) Any Industrial User and POTW subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section, including documentation associated with Best Management Practices. Such records shall include for all samples:

* * * * *

(2) Any Industrial User or POTW subject to the reporting requirements established in this section (including documentation associated with Best Management Practices) shall be required to retain for a minimum of 3 years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the Department and the Regional Administrator (and POTW in the case of an Industrial User). This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Industrial User or the operation of the POTW Pretreatment Program or when requested by the Department or the Regional Administrator.

* * * * *

(q) Annual certification by Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User pursuant to section 403.3(v)(2) must annually submit the following certification statement, signed in accordance with the signatory requirements in paragraph (l) of this section. This certification must accompany any alternative report required by the Control Authority:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR -----, I certify that, to the best of my knowledge and belief that during the period from -----, to -----, ----- [month, days, year]:

(a) The facility described as ----- [facility name] met the definition of a non-significant categorical Industrial User as described in section 403.3(o)(2); (b) the facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than a total of 100 gallons of categorical wastewater on any given day during this reporting period. This compliance certification is based upon the following information:

403.13 ***

(m) ***

(2) If the Regional Administrator declines to hold a hearing and the Regional Administrator affirms the findings of the Administrator's delegate, the requester may submit a petition for a hearing to the ~~Administrator~~ Environmental Appeals Board (which is described in section 1.25 of 40 CFR Part 1.25) within 30 days of the Regional Administrator's decision.

403.15 Net/gross calculation.

(a) Application. Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the Control Authority. Upon request of the Industrial User, the applicable Standard will be calculated on a ``net'' basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of ~~paragraphs~~ paragraph (b) ~~and (e)~~ of this section are met.

(b) Criteria.

(1) Either:

(i) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis or

(ii) The Industrial User ~~must demonstrate~~ demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.

(3) Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this section.

~~(e) The applicable categorical pretreatment standards contained in 40 CFR Subchapter N specifically provide that they shall be applied on a net basis.~~

403 Appendix G - Pollutants Eligible for a Removal Credit

I. Regulated Pollutants in Part 503 Eligible for a Removal Credit

1. The following organic pollutants are eligible for a removal credit if the requirements for total hydrocarbons (or carbon monoxide) in subpart E in R.61-9.503 and other requirements in R.61-62, Air Pollution Control Regulations and Standards, are met when sewage sludge is fired in a sewage sludge incinerator:

* * * * *

II. Additional Pollutants Eligible for a Removal Credit (milligrams per kilogram – dry weight basis)

Pollutants	Use or Disposal Practice			
	<u>LA</u>	<u>Surface Disposal</u>		<u>I</u>
		<u>Lined</u> <u>Unlined</u> ¹	<u>Unlined</u> <u>Lined</u> ²	

* * * * *

503.4 Relationship to other regulations.

(a) Disposal of sewage sludge in a municipal solid waste landfill unit, as defined in 40 CFR 258.2 and ~~R.61-107.258~~ R.61-107, that complies with the requirements in 40 CFR Part 258 and ~~R.61-107.258~~ R.61-107 constitutes compliance with section 405(d) of the CWA. Any person who prepares sewage sludge that is disposed in a municipal solid waste landfill unit shall ensure that the sewage sludge meets the requirements in 40 CFR Part 258 and ~~R.61-107.258~~ R.61-107 concerning the quality of materials disposed in a municipal solid waste landfill unit.

(b) The disposal of sewage sludge involving the composting or co-composting of the sewage sludge with yard trash, land-clearing debris, or a combination of yard trash and land clearing debris shall comply with the requirements established in ~~R.61-107.4~~ R.61-107. The submission and information requirements shall be determined by the Department.

(c) The disposal of sewage sludge utilizing an innovative and experimental solid waste management technology or process shall comply with the requirements addressed in ~~R.61-107.10~~ R.61-107.

* * * * *

503.12 * * *

(m) The Department may establish permit conditions to require that sludge application remain consistent with the lime and fertilizer requirements for the cover, feed, food, and fiber crops based on published lime and fertilizer recommendations (such as ~~the Lime and Fertilizer Recommendations, Clemson Extension Services, Circular 476~~ “Nutrient Management for South Carolina”, Cooperative Extension Service, Clemson University, EC 476).

* * * * *

503.32 * * *

TABLE 4 OF SECTION 503.32 - If the sewage sludge is less than 7% solids
and the temperature of the sewage sludge is 50 degrees Celsius or higher;
and the time period is 30 minutes or longer.

* * * * *

503.50 * * *

(a) The permittee shall prepare an odor abatement plan for the sewage sludge treatment sites, any sludge storage or lagoon areas, and land application or surface disposal sites. Permittees that land-apply sludge must prepare the plan within 180 days of the effective date of this regulation (effective date of June 26, 2003). ~~Otherwise, the permittee has~~ Permittees that have facilities described above that require plans have one (1) year from the June 26, 2003 effective date to prepare the plan. Odor abatement plans must be submitted for new projects with the submission of permit applications. The plan must include the following topics:

* * * * *

504.4 Relationship to other regulations.

(a) Disposal of industrial sludge in a municipal solid waste landfill unit permitted under ~~R.61-107.258~~ R.61-107 constitutes compliance with this regulation. Any person who prepares industrial sludge that is disposed in a municipal solid waste landfill unit shall ensure that the industrial sludge meets the requirements in ~~R.61-107.258~~ R.61-107 concerning the quality of materials disposed in a municipal solid waste landfill unit. Disposal of industrial sludge in an industrial solid waste landfill unit complying with State Solid Waste regulations and requirements in permits constitutes compliance with this regulation.

(b) The disposal of industrial sludge involving the composting or co-composting of the industrial sludge with yard trash, land-clearing debris, or a combination of yard trash and land clearing debris shall comply with the requirements established by the Department in ~~R.61-107.4~~ R.61-107. The submission and information requirements shall be determined by the Department.

(c) The disposal of industrial sludge utilizing an innovative and experimental solid waste management technology or process shall be permitted under ~~R.61-107.10~~ R.61-107.

* * * * *

504.12 * * *

(m) The Department may establish permit conditions to require that the agronomic rate of sludge application remain consistent with the lime and fertilizer requirements for the cover, feed, food, and fiber crops based on published lime and fertilizer recommendations (such as ~~the Lime and Fertilizer Recommendations, Clemson Extension Services, Circular 476~~ "Nutrient Management for South Carolina", Cooperative Extension Service, Clemson University, EC 476).

* * * * *

504.22 * * *

(a) * * *

(2) For any facility, except a landfill or a sludge only monofill, meeting the definition of a land disposal site on the date of this regulation, either sufficient amount of sludge must be removed from

the facility in order to change the facility's classification, or a report detailing final closure must be submitted to the Bureau of Water ~~Pollution Control~~, Department of Health and Environmental Control or an application for permitting under Solid Waste Regulations must be submitted to the Bureau of ~~Solid and Hazardous Waste~~ Land and Waste Management, Department of Health and Environmental Control. Either the sludge removal must be accomplished within one year after the date of this regulations or the closeout report or permit application must be submitted to the Department within one (1) year after the date of this regulation. If closure is the selected option, the plan must provide a schedule showing how the closure will be accomplished. The land disposal site must be either closed under Regulation 61-82 or permitted by Solid Waste Management Regulations ~~within five (5) years after the date of this regulation.~~ by June 28, 2001. Facilities will be in compliance with this section if a timely and complete application for closure or permit is made and through no fault of the applicant a closure approval or permit has not been issued.

* * * * *

504.50 * * *

(a) The permittee shall prepare an odor abatement plan for the industrial sludge treatment sites, any sludge storage or lagoon areas, and land application or surface disposal sites. Permittees that land-apply sludge must prepare the plan within 180 days of the effective date of this regulation (effective date of June 26, 2003). ~~Otherwise, the permittee has~~ Permittees that have facilities described above that require plans have one (1) year from the June 26, 2003 effective date to prepare the plan. Odor abatement plans must be submitted for new projects with the submission of permit applications. The plan must include the following topics:

* * * * *

505.41 * * *

(p) * * *

(5) Basins, storage ponds or constructed impoundments (except for systems designed to operate in this manner, e.g., infiltration basins) which are in use may be required to be monitored with groundwater monitoring wells as approved by the Department. The basin, storage pond or constructed impoundment may be considered unlined if the leakage rate is greater than 500 gallons per day per acre, or information available would indicate to the Department that specific hydrological conditions would require groundwater monitoring. The Department may consider the level of treatment, or the type of wastewater (e.g., influent characteristics) in the determination of whether an unlined basin, storage pond or other constructed impoundments must have groundwater monitoring. Storage facilities for reclaimed water (as described in section 505.45) will not require groundwater monitoring unless specifically required by the Department.

* * * * *

505.45 * * *

(i) * * *

(9) * * *

(i) Land application systems. For all POTW and for those other systems including in the influent a significant amount of, or having a significant effect from, domestic sewage, at least as stringent as 200/100 ml monthly average and 400/100 ml daily maximum, or the bacteriological standard from the nearest surface water body as defined in R.61-68-E.12(c)(8) and (9) (if this surface

water is classified with a more restrictive standard), except where it can be shown that neither storm water nor wastewater will run off the disposal site to a waterway and that the isolation of the disposal site will eliminate exposure of persons to pathogens. A significant amount or effect is related to the effluent having a reasonable potential to violate the above-stated bacteriological requirement. For all other discharges, the Department may use the previously identified limits, or establish other fecal coliform limitations to reflect the specific discharge and site conditions. Domestic sewage is defined at R.61-9.503.9.

* * * * *